

Date, Time, and Place of Motion:

April 13, 2011 at
9:15 a.m.
U.S. Bankruptcy Court
James T. Foley US
Courthouse, 445 Broadway
Albany, NY 12207
Room 306

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In Re:

AFFIDAVIT

DARREN P. RYBKA
a/k/a DARREN P. RYBKA SR.

Case No. 10-14160

Debtor

Marc S. Ehrlich, Esq., being duly sworn, deposes and says:

1. I am the Chapter 7 Trustee of the above-referenced bankruptcy and am making this affidavit in support of my motion, pursuant to FRBP 2004, for an examination of Darren P. Rybka, the debtor herein.
2. The source of my knowledge for this affidavit is review of the file which I have maintained as Trustee in this case.
3. Debtors filed a Chapter 7 petition on November 5, 2010.
4. Among the assets of the Estate are seven (7) potential preferential transfer payments. Each of the transactions appears on bank statements provided by debtor. The backup documentation provided does not include the name and address of the respective payees.
5. Debtor testified at the section 341 examination that the seven (7) checks at issue were for contemporaneous services provided. Debtor has failed to provide to me an affidavit signed by debtor outlining the specifics regarding the transactions at

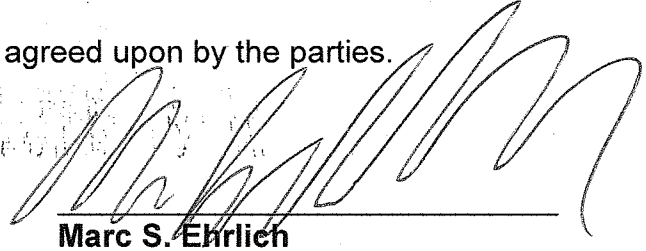
issues.

6. The checks are as follows:
 - a. check #1322 in the amount of \$1800.00 which was negotiated on September 22, 2010;
 - b. check #1362 in the amount of \$2000.00 which was negotiated on October 20, 2010;
 - c. check #1263 in the amount of \$1750.00 which was negotiated on September 2, 2010;
 - d. check #1268 in the amount of \$3000.00 which was negotiated on September 2, 2010;
 - e. check #1313 in the amount of \$3500.00 which was negotiated on September 8, 2010;
 - f. check #1260 in the amount of \$2500.00 which was negotiated on August 18, 2010; and
 - g. check #1311 in the amount of \$1500.00 which was negotiated on August 11, 2010;
7. I am requesting that the Court issue an order, pursuant to FRBP 2004, for an examination of debtor Darren P. Rybka by the Trustee so that the preferential transfer issues can be resolved such that the Trustee can ascertain whether valid causes of action exist to recover certain preferential transfer payments.
8. I am further requesting that the debtor provide to the Trustee copies of the seven (7) checks at issue.
9. Debtor has a continuing duty to cooperate with the Trustee as necessary to enable

the Trustee to perform the Trustee's duties. See 11 U.S.C. section 521(3).

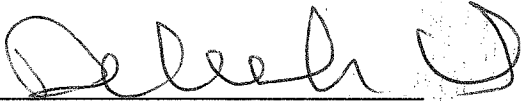
10. No previous application has been made for the relief sought.

WHEREFORE, your deponent respectfully requests that the Court issue an Order scheduling an examination of Darren P. Rybka, the debtor herein, pursuant to FRBP 2004, to occur at a date, time, and location agreed upon by the parties.



Marc S. Ehrlich

Sworn to before me the 17th day of March, 2011



Notary Public

My Commission Expires

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